

U.S. DISTRICT COURT  
DISTRICT OF VERMONT  
FILED

UNITED STATES DISTRICT COURT

FOR THE  
DISTRICT OF VERMONT

2018 AUG -2 PM 2:39

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KAREN E. O'CONNELL,

)

Plaintiff,

)

v.

)

SPRINGFIELD HOSPITAL, INC., and  
JOHN S. CIOCCHI, M.D.,

)

Defendants.

)

Case No. 5:16-cv-289

### JURY VERDICT

#### A. MEDICAL NEGLIGENCE

1. Do you find that defendant John Ciocchi, M.D. was negligent in his care of plaintiff Karen O'Connell?

YES \_\_\_\_\_

NO ✓.

2. Do you find that negligence by defendant Dr. Ciocchi was the cause of injury to plaintiff Karen O'Connell?

YES \_\_\_\_\_

NO ✓.

On both of these questions, the plaintiff has the burden of proof by a preponderance of the evidence.

#### B. INFORMED CONSENT

3. Do you find that Dr. Ciocchi failed to disclose the alternative of percutaneous drainage to Karen O'Connell prior to performing abdominal surgery?

YES ✓ NO \_\_\_\_\_.

4. Do you find that a reasonable physician under similar circumstances would have disclosed such alternative to a patient?

YES ✓ NO \_\_\_\_\_.

5. Do you find that Ms. O'Connell would have declined the surgery if she had known of such alternative?

YES ✓ NO \_\_\_\_\_.

On these questions (3 -5), plaintiff has the burden of proof by a preponderance of the evidence.

6. Do you find that a reasonably prudent person in the patient's position would have undergone the surgery if she had been fully informed of the alternative?

YES \_\_\_\_\_ NO ✓.

On question 6, the defendant Dr. Ciocchi has the burden of proof by a preponderance of the evidence.

### Step 7

If you have answered "Yes" to both questions 1 and 2 (medical negligence), you have ruled in favor of plaintiff on the issue of medical negligence. In that event, you should continue to question 8 (Damages).

If you have answered "Yes" to questions 3 -5 and "No" to question 6 (informed consent), you have ruled in favor of plaintiff on the issue of informed consent. In that event, you should continue to question 8 (Damages).

These answers mean that you have found for the plaintiff on one or both of her claims. Plaintiff need prove only one of her claims in order to recover damages. The damage

calculation is the same regardless of whether you find that she has proved one claim or both.

But, if you have answered "No" to either question 1 or 2 (medical negligence) **and** "No" to any of questions 3 – 5 (informed consent) or "Yes" to question 6 (defense to informed consent), you have found in favor of the defendant physician. In this event, the foreperson should sign the verdict form without answering question 8 (damages).

You should not consider the question of damages unless you have decided in favor of the plaintiff on either medical negligence, informed consent or both.

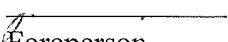
8. What is the amount of money which fairly compensates the plaintiff for each of the following categories of damages:

Medical expenses \$ 400,000.

Pain and suffering, mental anguish and loss of enjoyment of life, past and future:

\$ 0.

  
Dated: August 1, 2018

  
Foreperson